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February 29, 2000
The Honorable ███████████████
U.S. House of Representatives
Washington, D.C. 20515

Dear ██████████:

The Commissioner has asked me to respond to your January 27, 2000, letter concerning the federal income tax treatment of certain educational benefits provided by a voluntary employees' beneficiary association (VEBA) to its members. Specifically, you asked whether educational benefits provided by a VEBA are excluded from gross income under section 117(a) of the Internal Revenue Code (the Code).

Generally, gross income does not include any amount received as a qualified scholarship or fellowship grant (section 117(a) of the Code). The exclusion does not extend to amounts that represent compensation for services, however. Where educational benefits are paid in an employment context, a question may arise as to whether the amounts are received as qualified scholarship or fellowship grants, or as compensation for services. To resolve this matter we have to consider all relevant facts and circumstances, which include: the history of the benefits program, source of funding, eligibility requirements, selection criteria, independence of the selection committee, the nature of any employee preference or limitation, and the percentage of eligible applicants normally receiving awards.

Disclosure provisions of the Code prohibit me from discussing any specific actions proposed or taken by the Internal Revenue Service toward a particular taxpayer. I share your concern that the tax laws be administered in a fair and reasonable manner, as intended by the Congress. It is our goal to properly and consistently determine whether grants made for educational purposes meet the requirements for exclusion from income as qualified scholarship or fellowship grants.

I hope this information is helpful. Please contact me at (202) 622-4510 if I can be of further assistance.

                  Sincerely,

                  Heather Maloy
                  Deputy Associate Chief Counsel (Domestic)